IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.133 OF 2006

Rashtriya Chemicals & Fertilizers Ltd. .. Petitioner
V/s
Union of India & Ors. .. Respondents

Mr.E.P.Bharucha, Senior Counsel with Mr.Romi Patel and Mrs.Swati Deshpande i/by M/s.Bodhanwala & Co. for the Petitioner.

Mr.M.I.Sethna with Mr.A.M.Sethna for the Respondent Nos.1 and 2.

CORAM: DR.S.RADHAKRISHNAN &
J.P.DEVADHAR, JJ.

DATE : 19.01.2006.

P.C.:

1. Rule. Rule is made returnable forthwith.

2. Heard the learned Counsel for the Petitioner and the learned Counsel for Respondent Nos.1 and 2 by consent. The learned Counsel for Respondent Nos.1 and 2 waives service. Service to Respondent No.3 is not necessary at this stage.

3. The main grievance of the Petitioner is that the Petitioner has already preferred an appeal against the order in Original dated 15th December, 2005 before the Appellate Authority and the Petitioner has also filed a stay application with regard to the same and the said stay application is still pending. The ultimate relief sought by the Petitioner in this case is that the Respondent Nos.1 and 2 should not encash the Bank Guarantee till the aforesaid stay application is decided by the said Appellate Authority, and in the event the decision of the said Appellate Authority goes adverse to

the Petitioner, the said Bank Guarantee shall not be encashed for a further period of four weeks thereafter.

3. Having regard to the facts and circumstances of this case, and having regard to the fact that the aforesaid stay application is yet to be decided by the Appellate Authority, we direct the Respondent Nos.1 and 2 not to encash the Bank Guarantee till the decision of the said stay application. We further direct that in the event the decision of the Appellate Authority goes adverse to the Petitioner, the Bank Guarantee shall not be encashed for a further period of four weeks from the date of the said order.

4. Writ Petition stands disposed of in the above terms. Rule is accordingly made absolute.

(DR.S.RADHAKRISHNAN, J.)

(J.P.DEVADHAR, J.)